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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

DENDA et al.

Art Unit: 2653

Application No.: 10/058,790

Examiner: A. Psitos

Filed: January 30, 2002

Attorney Dkt. No.: 107156-00095

For: METHOD AND APPARATUS FOR READING AND WRITING INFORMATION,
AND PROGRAM STORAGE MEDIUM FOR STORING READ AND WRITE
PROCEDURE PROGRAM

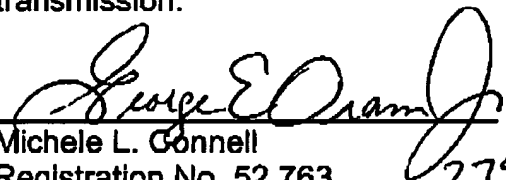
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Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

August 15, 2006

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Michele L. Connell
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August 15, 2006
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TECH/445722.1

AUG 15 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Confirmation No.: 4718
Akihiro DENDA, et al. Group Art Unit: 2653
Serial No.: 10/058,790 Examiner: Aristotelis M. Psitos
Filed: January 30, 2002 Docket No.: 107156-00095
For: METHOD AND APPARATUS FOR READING AND WRITING
INFORMATION, AND PROGRAM STORAGE MEDIUM FOR
STORING READ AND WRITE PROCEDURE PROGRAM

PETITION FROM REQUIREMENT FOR RESTRICTION UNDER 37 C.F.R. § 1.144

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: August 15, 2006

Sir:

The Applicants petition from the restriction requirement issued in the Office Action mailed January 27, 2006 as permitted by 37 C.F.R. § 1.144.

The Applicants requested reconsideration of the restriction requirement, and provisionally elected claims 10-18, with traverse in the response filed February 23, 2006. The Examiner reasserted the requirement in the Office Action mailed May 30, 2006. Thus, the Applicants are entitled to petition from the requirement under 37 C.F.R. § 1.144.

Claims 10-18, which were provisionally elected with traverse in the response filed February 23, 2006, were originally presented as amended claims 1-9 in the amendment filed August 12, 2005, in response to the Final Office Action mailed May 27, 2005. The Examiner reviewed amended claims 1-9, but did not enter the amendments, and issued an Advisory Action, mailed August 24, 2005. In the August 24, 2005 Advisory Action, the Examiner advised the Applicants to file claims 1-9, as amended, with a RCE in order to have the claims examined. A copy of the August 24, 2005 Advisory Action is attached as Exhibit 1.

In accordance with the Examiner's recommendation, the Applicants filed a RCE requesting entry of the amendment filed August 12, 2005. Then, in the Office Action mailed January 27, 2006, the Examiner asserted that the invention claimed in the RCE is directed to a different invention than was originally claimed, and that the claims are

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Serial No.: 10/058,790
Docket No.: 107156-00095

therefore subject to restriction.

In a telephone conference with the Examiner on February 6, 2006, the Examiner stated that the claims as amended by the RCE are drawn to a different invention than was originally claimed, and cannot be filed by way of a RCE.

However, as noted above, in the Advisory Action mailed August 24, 2005, the Examiner wrote:

Applicants' amendment alters the scope of the invention previously searched and examined...if applicants are desirous of such scope for their claimed invention, then the examiner recommends the filing of a RCE.


Advisory Action of August 24, 2005.

The Applicants therefore petition the restriction requirement be withdrawn and request the immediate examination of claims 10-18 at least because the Examiner suggested the filing of a RCE in order to have the subject matter of claims 10-18 examined, and the Applicants followed the Examiner's suggestion on the assumption that doing so would lead to the examination of the desired subject matter, i.e., claims 10-18.

If any fee is due to effect grant of this Petition, the U.S. Patent and Trademark Office is authorized to charge Deposit Account No. 01-2300.

It is respectfully submitted that the requirements of 37 CFR § 1.144 are satisfied.

Respectfully submitted,


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Attachment: Exhibit 1

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